



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 14 2015

OFFICE OF  
CONGRESSIONAL AND  
INTERGOVERNMENTAL  
RELATIONS

The Honorable Jason Chaffetz  
Chairman  
Committee on Government and Oversight Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

Thank you for your letter of March 26, 2015, regarding the assessment and use of fines and penalties by Executive Branch agencies, including the U.S. Environmental Protection Agency. We appreciate your interest in this matter and welcome the opportunity to explain the disposition of fines and penalties assessed by the EPA after collection.

The enclosure to this letter, prepared by our Office of Enforcement and Compliance Assurance, explains the disposition of fine and penalty money collected under statutes implemented by the EPA and summarizes the EPA's civil and criminal penalty authorities. We hope this information is helpful.

Again, thank you for your interest in this important topic. If you have further questions, please contact me, or your staff may contact Tom Dickerson in my office at [dickerson.tom@epa.gov](mailto:dickerson.tom@epa.gov) or (202) 564-3638.

Sincerely,

A handwritten signature in blue ink that reads "Laura E. Vaught".

Laura Vaught  
Associate Administrator

Enclosure

Cc: The Honorable Elijah E. Cummings  
Ranking Member

ENCLOSURE FOR THE ENVIRONMENTAL PROTECTION AGENCY'S RESPONSE TO  
THE MARCH 26, 2015, LETTER FROM CHAIRMAN CHAFFETZ

The EPA's governing statutes provide authority for the agency to take enforcement actions to ensure that our nation's environment is protected from unlawful pollution. The environmental laws the EPA implements include authority to assess civil and criminal fines and penalties. The chart below summarizes the EPA's civil and criminal penalty authorities.

All fine and penalty money collected under statutes implemented by the EPA are directed to the U.S. Treasury. Some penalties, collected under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), the Clean Water Act ("CWA") § 311, and the Toxic Substances Control Act ("TSCA") § 207(a), and discussed in more detail below, are directed to specific accounts within Treasury.

Penalties collected under CERCLA are generally directed to the Superfund Trust Fund. *See* 26 U.S.C. § 9507(b)(4) (appropriating to the Superfund "penalties assessed under title I of CERCLA"). Once deposited in the Superfund Trust Fund, Congress must appropriate such funds before the EPA may spend them. Therefore, spending is constrained by whatever terms and conditions Congress includes in the EPA's appropriations acts. Congress typically appropriates funds from the Superfund Trust Fund (which could include amounts that originated as penalties) to the EPA as a part of the EPA's Hazardous Substance Superfund appropriation, which is generally available "[f]or necessary expenses to carry out [CERCLA]." *See* Pub. L. 113-235 (2015).

The EPA processes penalties collected under the CWA § 311, relating to oil and hazardous substance liability, to the U.S. Coast Guard via the intra-governmental payment and collection ("IPAC") system for deposit in the Oil Spill Liability Trust Fund. *See* Pub. L. 101-380, § 4304, Aug. 18, 1990 (26 U.S.C. § 9509 note). The EPA's Office of the Chief Financial Officer processes collections of CWA § 311 penalties assessed administratively, whereas the Department of Justice (DOJ) collects CWA § 311 penalties assessed judicially. Once penalties are deposited in the Oil Spill Liability Trust Fund, Congress must appropriate any funds collected before the EPA may spend them. Therefore, spending is constrained by whatever terms and conditions Congress includes in the EPA's appropriations acts. Congress typically appropriates funds from the Oil Spill Liability Trust Fund (which could include amounts that originated as penalties) to the EPA as part of the EPA's Inland Oil Spill Programs appropriation, which is generally available "[f]or expenses necessary to carry out [EPA's] responsibilities under the Oil Pollution Act of 1990." *See* Pub. L. 113-235 (2015). Additionally, administrative and civil penalties paid in connection with the *Deepwater Horizon* case are largely governed by the RESTORE Act. *See* Pub. L. 112-141, Subtitle F (2012).

The Toxic Substances Control Act (TSCA) provides that "[a]ny portion of a civil penalty remaining unspent" after a local educational agency has used the civil penalty to comply with its obligations under TSCA's provisions relating to asbestos management shall be deposited in the Asbestos Trust Fund in the Treasury. 15 U.S.C. § 2647(a); 20 U.S.C. § 4022. The Asbestos Trust Fund was used by the EPA subject to appropriations from the mid-1980s to the mid-1990s to finance grants and loans to certain schools for asbestos abatement. *See* 20 U.S.C. § 4014.

Because the EPA cannot spend money from the Asbestos Trust Fund absent Congressional appropriation, and Congress has not appropriated funds for that program since fiscal year 1993, the EPA has no authority to spend those funds at this time. *See* 20 U.S.C. § 4022(d).

For all other environmental statutes implemented by the EPA, the EPA deposits fines and penalties collected into the U.S. Treasury General Fund, where they are unavailable for spending absent appropriation by Congress. *See* 31 U.S.C. § 3302. Between January 1, 2010 and December 31, 2014, the EPA collected \$607,666,246.80 in fines and penalties.

***Criminal Fine and Penalty Authorities under Statutes Implemented by EPA***

| CRIMINAL STATUTE  | U.S. CODE CITATION   |
|---|--|
| ACT TO PREVENT POLLUTION FROM SHIPS (APPS)  | 33 U.S.C. § 1908(a)  |
| CLEAN AIR ACT (CAA)   | 42 U.S.C. § 7413(c)<br>42 U.S.C. §§ 4910(a)(1), (2)<br>42 U.S.C. § 4912(c)     |
| COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION & LIABILITY ACT (CERCLA)           | 42 U.S.C. § 9603(b)  |
| EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW ACT (EPCRA)                            | 42 U.S.C. § 11045(b)(4)  |
| FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT (FIFRA)                            | 7 U.S.C. § 136l(b)   |
| FEDERAL WATER POLLUTION CONTROL ACT (FWPCA) (ALSO KNOWN AS THE CLEAN WATER ACT (CWA)) | 33 U.S.C. § 1319(c)<br>33 U.S.C. § 1321(b)                                     |
| MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT (MPRSA)                              | 33 U.S.C. § 1415(b)  |
| RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)   | 42 U.S.C. §§ 6928(d), (e)  |
| RIVERS AND HARBORS ACT  | 33 U.S.C. §§ 401-467   |
| SAFE DRINKING WATER ACT (SDWA)  | 42 U.S.C. §§ 300i-1(a), (b)<br>42 U.S.C. § 300h-2(b)<br>42 U.S.C. § 300j(e)(1) |
| TOXIC SUBSTANCES CONTROL ACT (TSCA)   | 15 U.S.C. § 2615(b)  |

***Civil Fine and Penalty Authorities under Statutes Implemented by EPA***

| CIVIL STATUTE   | U.S. CODE CITATION     |
|---|------------------------|
| FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA) | 7 U.S.C. § 136l(a)(1)  |
| TOXIC SUBSTANCES CONTROL ACT (TSCA)                         | 15 U.S.C. § 2615(a)(1) |
| TSCA  | 15 U.S.C. § 2647(a)    |
| TSCA  | 15 U.S.C. § 2647(g)    |
| PROGRAM FRAUD CIVIL REMEDIES ACT (PFCRA)                    | 31 U.S.C. § 3802(a)(1) |
| PFCRA   | 31 U.S.C. § 3802(a)(2) |

| CIVIL STATUTE   | U.S. CODE CITATION                                  |
|---|---|
| FEDERAL WATER POLLUTION CONTROL ACT (FWPCA) (ALSO KNOWN AS THE CLEAN WATER ACT (CWA)) | 33 U.S.C. § 1319(d)                                 |
| CWA   | 33 U.S.C. § 1319(g)(2)(A)                           |
| CWA   | 33 U.S.C. § 1319(g)(2)(B)                           |
| CWA   | 33 U.S.C. § 1321(b)(6)(B)(i)                        |
| CWA   | 33 U.S.C. § 1321(b)(6)(B)(ii)                       |
| CWA   | 33 U.S.C. § 1321(b)(7)(A)                           |
| CWA   | 33 U.S.C. § 1321(b)(7)(B)                           |
| CWA   | 33 U.S.C. § 1321(b)(7)(C)                           |
| CWA   | 33 U.S.C. § 1321(b)(7)(D)                           |
| MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT (MPRSA)                              | 33 U.S.C. § 1415(a)                                 |
| CERTAIN ALASKAN CRUISE SHIP OPERATIONS (CACSO)  | 33 U.S.C. § 1901 note ( <i>see</i> § 1409(a)(2)(A)) |
| CACSO   | 33 U.S.C. § 1901 note ( <i>see</i> § 1409(a)(2)(B)) |
| CACSO   | 33 U.S.C. § 1901 note ( <i>see</i> § 1409(b)(1))    |
| ACT TO PREVENT POLLUTION FROM SHIPS (APPS)  | 33 U.S.C. § 1908(b)(1)                              |
| APPS  | 33 U.S.C. § 1908(b)(2)                              |
| SAFE DRINKING WATER ACT (SDWA)  | 42 U.S.C. § 300g-3(b)                               |
| SDWA  | 42 U.S.C. § 300g-3(g)(3)(A)                         |
| SDWA  | 42 U.S.C. § 300g-3(g)(3)(B)                         |
| SDWA  | 42 U.S.C. § 300g-3(g)(3)(C)                         |
| SDWA  | 42 U.S.C. § 300h-2(b)(1)                            |
| SDWA  | 42 U.S.C. § 300h-2(c)(1)                            |
| SDWA  | 42 U.S.C. § 300h-2(c)(2)                            |
| SDWA  | 42 U.S.C. § 300h-3(c)                               |
| SDWA  | 42 U.S.C. § 300i(b)                                 |
| SDWA  | 42 U.S.C. § 300i-1(c)                               |
| SDWA  | 42 U.S.C. § 300j(e)(2)                              |
| SDWA  | 42 U.S.C. § 300j-4(c)                               |
| SDWA  | 42 U.S.C. § 300j-6(b)(2)                            |
| SDWA  | 42 U.S.C. § 300j-23(d)                              |
| RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992                             | 42 U.S.C. § 4852d(b)(5)                             |
| NOISE CONTROL ACT OF 1972   | 42 U.S.C. § 4910(a)(2)                              |
| RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)   | 42 U.S.C. § 6928(a)(3)                              |

| CIVIL STATUTE  | U.S. CODE CITATION         |
|--|----------------------------|
| RCRA   | 42 U.S.C. § 6928(c)        |
| RCRA   | 42 U.S.C. § 6928(g)        |
| RCRA   | 42 U.S.C. § 6928(h)(2)     |
| RCRA   | 42 U.S.C. § 6934(e)        |
| RCRA   | 42 U.S.C. § 6973(b)        |
| RCRA   | 42 U.S.C. § 6991e(a)(3)    |
| RCRA   | 42 U.S.C. § 6991e(d)(1)    |
| RCRA   | 42 U.S.C. § 6991e(d)(2)    |
| CLEAN AIR ACT (CAA)  | 42 U.S.C. § 7413(b)        |
| CAA  | 42 U.S.C. § 7413(d)(1)     |
| CAA  | 42 U.S.C. § 7413(d)(3)     |
| CAA  | 42 U.S.C. § 7524(a)        |
| CAA  | 42 U.S.C. § 7524(c)(1)     |
| CAA  | 42 U.S.C. § 7545(d)(1)     |
| CAA – <i>[OAR is the Agency component]</i>   | 42 U.S.C. § 7420           |
| CAA – <i>[OAR is the Agency component]</i>   | 42 U.S.C. § 7651j          |
| COMPREHENSIVE ENVIRONMENTAL<br>RESPONSE, COMPENSATION, AND<br>LIABILITY ACT (CERCLA) | 42 U.S.C. § 9604(e)(5)(B)  |
| CERCLA   | 42 U.S.C. § 9606(b)(1)     |
| CERCLA   | 42 U.S.C. § 9609(a)(1)     |
| CERCLA   | 42 U.S.C. § 9609(b)        |
| CERCLA   | 42 U.S.C. § 9609(c)        |
| EMERGENCY PLANNING AND<br>COMMUNITY RIGHT-TO-KNOW ACT<br>(EPCRA)                     | 42 U.S.C. § 11045(a)       |
| EPCRA  | 42 U.S.C. § 11045(b)(1)(A) |
| EPCRA  | 42 U.S.C. § 11045(b)(2)    |
| EPCRA  | 42 U.S.C. § 11045(b)(3)    |
| EPCRA  | 42 U.S.C. § 11045(c)(1)    |
| EPCRA  | 42 U.S.C. § 11045(c)(2)    |
| EPCRA  | 42 U.S.C. § 11045(d)(1)    |
| MERCURY-CONTAINING AND<br>RECHARGEABLE BATTERY<br>MANAGEMENT ACT (BATTERY ACT)       | 42 U.S.C. § 14304(a)(1)    |
| BATTERY ACT  | 42 U.S.C. § 14304(g)       |